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GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 11850 H 4/61/Law. *Dated, Trivandrum, the 11th January* 1962. *Pausa* 21, 1883 (*Saka*).

The following Ordinance promulgated by the Governor on the 11th January, 1962, is hereby published for general information.

By order of the Governor,

P. SANKARAN ELAYATH,
Law Secretary.

THE KERALA RYOTWARI TENANTS PROTECTION ORDINANCE, 1962

(ORDINANCE No. 1 OF 1962)

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TRIVANDRUM, 1962.

ORDINANCE No. 1 OF 1962

THE KERALA RYOTWARI TENANTS PROTECTION ORDINANCE, 1962

Promulgated by the Governor of Kerala in the Twelfth Year of the Republic of India.

AN

ORDINANCE

to provide for the temporary protection of tenants of ryotwari lands in the taluks of Hosdrug and Kasaragod in the Cannanore district.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session, and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for the temporary protection of tenants of ryotwari lands in the taluks of Hosdrug and Kasaragod in the Cannanore district, pending the enactment of a comprehensive legislation relating to tenancy and agrarian reforms for the area comprising those taluks;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance :—

1. *Short title, extent, application and commencement.*—(1) This Ordinance may be called the Kerala Ryotwari Tenants Protection Ordinance, 1962.

(2) It extends to the taluks of Hosdrug and Kasaragod in the Cannanore district and applies to the ryotwari lands in the said taluks.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(i) "tenant" means a tenant as defined in the Kerala Agrarian Relations Act, 1960, and includes—

(a) the holder of a vaidageni lease ;

(b) a person holding under a transaction described in the document evidencing it as Bhogya, Otti, Nattotti, Arwar, Illidarwar or Krithasartha Illidarwar, but not being a usufructuary mortgage as defined in the Transfer of Property Act, 1882 (Central Act 4 of 1882).

Explanation.—For the purposes of this clause, 'vaidageni lease' means a lease for a term of years ;

(ii) "varomdar" means a person who cultivates under a varom arrangement, and includes a crop-sharer ;

(iii) words and expressions used but not defined in this Ordinance and defined in the Kerala Agrarian Relations Act, 1960, shall have the meanings respectively assigned to them in that Act.

3. *Stay of eviction and of proceedings for recovery of rent.*—Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any custom, usage or contract, or in any decree or order of court,—

(1) no suit or other proceedings—

(i) for eviction of a tenant from his holding ; or

(ii) for recovery of rent of any land from a person, accrued due before the 11th day of April, 1957, or for damages for use and occupation for any period prior to the said date,

shall lie in any court, and all suits, proceedings in execution of decrees or orders, and other proceedings pending in the courts at the commencement of this Ordinance, for such eviction or for recovery of such rent or damages, shall be stayed ;

(2) in any suit for recovery from a tenant of rent accrued due subsequent to the 11th day of April, 1957, where the rent payable is more than the rent calculated at the rate specified in the Schedule for the appropriate class of land, the court may grant an interim decree for an amount not in excess of the amount so calculated and shall stay the proceedings in respect of the claim for the balance amount ;

(3) Where a decree has been passed for recovery from a tenant of rent accrued due subsequent to the 11th day of April, 1957, and the amount decreed exceeds the amount calculated at the rate referred to in clause (2), the court shall, on application made by the tenant within a period of ninety days from the commencement of this Ordinance or within such further time as the court may, for good and sufficient reasons, allow, reopen the decree and grant an interim decree for the amount so calculated and stay the proceedings in respect of the claim for the balance amount.

4. *Varomdar's right to continue to cultivate land.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, where, in respect of any land, there is a varomdar at the commencement of this Ordinance, he shall be entitled to cultivate the land on the same terms and conditions under which he was cultivating the land immediately before the commencement of this Ordinance.

Explanation.—For the purposes of this section, any person who, on the 11th day of April, 1961, continued in cultivation of any land by virtue of the provisions of section 6 of the Kerala Stay of Eviction Proceedings Act, 1957, shall be deemed to be a varomdar, notwithstanding the expiry of the term fixed under the varom arrangement.

5. *Remission of rent.*—(1) Where there has been a damage to, or a failure of, crops owing to causes beyond the control of the tenant in any holding, the tenant shall be entitled to a remission of the rent payable by him in proportion to the extent of such damage or failure.

(2) The District Collector shall, on an application to him by the tenant, determine the extent of damage to, or failure of, crops under sub-section (1) and order such remission of rent as appears to him just and proper. The decision of the Collector shall be final and the tenant shall be entitled to get the benefit of the remission so ordered.

(3) An application for remission of rent on any of the grounds specified in sub-section (1) filed by a tenant on or after the 15th day of February, 1961, shall be deemed to have been filed under this section as if this section were in force on the date on which it was filed, and accordingly any order passed on any such application shall be deemed to have been validly made under this section.

6. *Limitation.*—In computing the period of limitation prescribed for the institution of suits or proceedings prohibited or stayed under this Ordinance, the time during which such suits or proceedings are prohibited or stayed shall be excluded.

7. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Ordinance.

(2) All rules made under this Ordinance shall be laid before the Legislative Assembly for a period of not less than fourteen days, as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

THE SCHEDULE

(*See* section 3)

Sl. No.	Class of land.	Rate of rent.
(1)	(2)	(3)
1	Lands converted into nilam by tenant's labour ..	1/9 of the gross paddy produce.
2	Single crop nilam converted into double crop nilam by tenant's labour—	
	(i) For first crop ..	1/5 of the gross paddy produce.
	(ii) For second crop ..	1/12 of the gross paddy produce.
3	Lands cultivated on—	
	(i) Kaipad system ..	1/12 of the gross paddy produce.
	(ii) Palliyal system ..	1/12 of the gross paddy produce.
4	Nilams not falling under item 1, item 2, or item 3 ..	1/5 of the gross paddy produce.
5	Garden—	
	(a) Cocoanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/12 of the gross cocoanut produce.

THE SCHEDULE—(*contd.*)

(1)	(2)	(3)
	(b) Cocoanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/3 of the gross cocoanut produce.
	(c) Arecanut trees in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/14 of the gross arecanut produce.
	(d) Arecanut trees in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/4 of the gross arecanut produce.
	(e) Pepper-vine in respect of which the landlord is bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/10 of the gross pepper produce.
	(f) Pepper-vine in respect of which the landlord is not bound to pay compensation under the Kerala Compensation for Tenants Improvements Act, 1958 ..	1/4 of the gross pepper produce.
6	Paramba ..	1/12 of the gross produce.
7	(i) Tharisu land cultivated with groundnut or other crops notified by the Government ..	1/8 of the gross produce.
	(ii) Tharisu land not falling under item (i) above ..	Rs. 5 per acre.
8	Lands under Punam or Kumri cultivation ..	Rs. 3 per acre.

V. V. GIRI,
GOVERNOR